
UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE
August 17, 2001
bxa.doc.gov

CONTACT: Eugene Cottilli
(202) 482-2721

**COMMERCE SETTLES CHARGES OF EXPORT VIOLATIONS WITH
OREGON FIRM AND COMPANY PRESIDENT.**

U.S. Department of Commerce Assistant Secretary for Export Enforcement Michael J. Garcia today announced a \$25,000 fine and a three-year denial of export privileges on Microtek International Development Systems Division Inc. (Microtek), a technology company located in Hillsboro, Oregon, for alleged violations of the Export Administration Regulations.

The Department alleged that Microtek attempted to ship computer processor emulators to Iran through Taiwan without obtaining an export license while knowing that a license was required. Computer processor emulators are diagnostic electronic test equipment used to de-bug hardware and software. Microtek also was charged with making a false statement on an airway bill by stating that the ultimate destination of the items was Taiwan, when, in fact, the ultimate destination of the items was Iran. Microtek's President, Joe-Pin Ouyang was charged separately by the Department with attempting to export computer processor emulators without obtaining the required export license. In December 1999, Microtek and Mr. Ouyang pled guilty to related criminal charges in the United States District Court for the District of Oregon.

Microtek and Mr. Ouyang neither admitted nor denied the allegations, but Microtek agreed to a fine of \$25,000, and both Microtek and Mr. Ouyang each agreed to a three-year denial of exporting privileges to settle the charges. The three-year denials for both Microtek and Mr. Ouyang were suspended, provided that neither Microtek nor Mr. Ouyang commit any violations of the Regulations during the three-year period.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of national security, foreign policy, nonproliferation, and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the regulations.

Mr. Garcia commended the efforts of Julie Salcido, Special Agent-in-Charge of the Office of Export Enforcement's San Jose field office, who investigated the case.



APR 16 2001

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Microtek International Development
Systems Division, Inc.
3305 Northwest Alcock Dr.
Hillsboro, Oregon 97134

Attention: Joe-Pin Ouyang
President

Dear Mr. Ouyang:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Microtek International Development Systems Division, Inc. (Microtek DSD) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations).¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991, Supp. 2000 and Pub. L. No. 106-508, November 13, 2000)) (the Act).²

Facts constituting violations:

Charge 1

On or about October 30, 1997, Microtek DSD attempted to export computer processor emulators from the United States through Taiwan to Iran, without obtaining the authorization

¹ The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 2000 version.

² During the time of the Act's lapse (August 30, 1994 through November 12, 2000), the President, through Executive Order 13921 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 Fed. Reg. 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

required under Section 746.7 of the Regulations. BXA alleges that, by engaging in any conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Microtek DSD violated Section 764.2(a) of the Regulations

Charge 2

In connection with the attempted export referenced in Charge 1 above, Microtek DSD knew or had reason to know that the computer processor emulators required a license. BXA alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, has occurred, was about to occur, or was intended to occur, Microtek DSD violated Section 764.2(e) of the Regulations.

Charge 3

In connection with the attempted export referred to in charge 1 above, Microtek DSD identified Taiwan as the country of ultimate destination on the air waybill, an export control document as defined in Part 773 of the Regulations. In fact, Taiwan was not the intended ultimate destination for the shipment. BXA alleges that, by making a false or misleading statement in connection with the preparation, submission, issuance or use of any export control document, Microtek DSD violated Section 764.2(g) of the Regulations.

BXA alleges that Microtek DSD committed one violation each of Sections 764.2(a), 764.2(e) and 764.2(g) of the Regulations for a total of three violations.

Accordingly, Microtek DSD is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation (see Section 764.3(a)(1) of the Regulations and 15 C.F.R. § 6.4(a)(3) (2000));

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

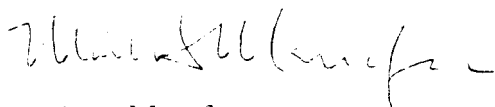
Copies of relevant Parts of the Regulations are enclosed.

If Microtek DSD fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Microtek DSD is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Microtek DSD's answer should be filed with the U.S. Coast Guard XLJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Microtek DSD's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee
Director
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)	
)	
MICROTEKINTERNATIONALDEVELOPMENT)	
SYSTEMS DIVISION, INC.)	
3305 Northwest Alclek Drive)	Docket No. 01-BXA-08
Hillsboro, Oregon 97124,)	
)	
Resnondent)	

SETTLEMENTAGREEMENT

This Agreement is made by and between Microtek International Development Systems Division, Inc. (Microtek DSD) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the Regulations),’ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2001)) (the Act).²

WHEREAS, on April 16, 2001, the Office of Export Enforcement, Bureau of Export Administration (BXA), initiated an administrative proceeding against Microtek DSD pursuant

¹ The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 2001 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2001)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508.

to the Act and the Regulations by issuing a Charging Letter alleging that, on or about October 30, 1997, Microtek DSD attempted to export computer processor emulators from the United States through Taiwan to Iran, without obtaining the authorization that it knew or had reason to know was required under Section 746.7 of the Regulations in violation of Sections 764.2(a) and 764.2(e) of the Regulations, and that, Microtek DSD made a false and misleading statement on the air waybill, an export control document as defined in Part 772 of the Regulations, when it identified Taiwan as the country of ultimate destination, when, in fact, Taiwan was not the intended destination for the shipment, in violation of Section 764.2(g) of the Regulation;

WHEREAS, Microtek DSD received notice of issuance of the Charging Letter on April 25, 2001;

WHEREAS, Microtek DSD has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Microtek DSD fully understands the terms of this Settlement Agreement and the Order; Microtek DSD enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and Microtek DSD states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Microtek DSD neither admits nor denies the allegations contained in the Charging Letter;

WHEREAS, Microtek DSD wishes to settle and dispose of all matters alleged in the Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Microtek DSD agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, Microtek DSD and BXA agree as follows:

1. BXA has jurisdiction over Microtek DSD, under the Act and the Regulations, in connection with the matters alleged in the Charging Letter.

2. BXA and Microtek DSD agree that the following sanctions shall be imposed against Microtek DSD in complete settlement of all alleged violations of the Act and the Regulations as set forth in the Charging Letter:

- (a) Microtek DSD shall be assessed a civil penalty of \$25,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of an appropriate Order.
- (b) Microtek DSD may not, for a period of three years from the date of the appropriate Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as item) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any

transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

(c) BXA agrees that, as authorized by Section 766.18(c) of the Regulations, the three year denial period set forth in paragraph in 2(b) shall be suspended for a period of three years beginning on the date of the entry of the appropriate Order and shall thereafter be waived, provided that during the period of suspension, Microtek DSD has committed no violation of the Act or any regulation, order or license issued thereunder, including failure to make timely payment of the civil penalty as set forth in paragraph 2(a) above.

3. Microtek DSD agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Microtek DSD in connection with any violations of the Act or the Regulations arising out of the transaction identified in the Charging Letter.

5. Microtek DSD understands that BXA will make the Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Microtek DSD agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BXA and Microtek DSD agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

MICROTEK INTERNATIONAL
DEVELOPMENT SYSTEMS
DIVISION, INC.

BY: 

Karan K. Bhatia
Chief Counsel for
Export Administration

BY: 

Joe-Pin Ouyang
President

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a t e :

8/3/01

Date:

7/27/01

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D. C. 20230

In the Matter of:)	
)	
MICROTEK INTERNATIONAL DEVELOPMENT)	
SYSTEMS DIVISION, INC.)	
3305 Northwest Alcock Drive)	Docket No. 01-BXA-08
Hillsboro, Oregon 97124,)	
)	
Respondent)	

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against Microtek International Development Systems Division, Inc. (Microtek DSD) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2001)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the Regulations),² based on allegations that, on or about October 30, 1997, Microtek attempted to export computer processor emulators from the United States through Taiwan to Iran, without obtaining the authorization

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2001)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508.

² The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 2001 version.

that it knew or had reason to know was required under Section 746.7 of the Regulations in violation of Sections 764.2(a) and 764.2(e) of the Regulations, and that, Microtek DSD made a false and misleading statement on the air waybill, an export control document as defined in Part 772 of the Regulations, when it identified Taiwan as the country of ultimate destination, when, in fact, Taiwan was not the intended destination for the shipment, in violation of Section 764.2(g) of the Regulation; and

BXA and Microtek DSD having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, a civil penalty of \$25,000 is assessed against Microtek DSD, which shall be paid to the U.S. Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 & Supp. 2001)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Microtek DSD will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, Microtek International Development Systems Division, Inc., 3305 Northwest Aloclek Drive, Hillsboro, Oregon 97124, may not, for a period of three years from the date of this Order, participate, directly or indirectly, in any way in any transaction involving any

commodity, software or technology (hereinafter collectively referred to as item) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FOURTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States that is owned, possessed or controlled by a denied person, or service any item, of whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

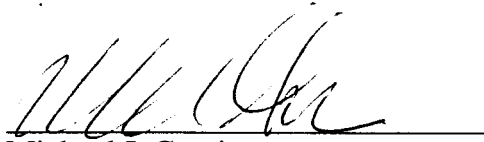
FIFTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

SIXTH, that as authorized by Section 766.18(c) of the Regulations, the three year denial period set forth in paragraph THIRD shall be suspended for a period of three years beginning on the date of the entry of this Order and shall thereafter be waived, provided that during the period of suspension, Microtek DSD has committed no violation of the Act or any regulation, order or license issued thereunder, including failure to make timely payment of the

civil penalty set forth above.

SEVENTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Michael J. Garcia
Assistant Secretary
for Export Enforcement

Entered this 17th day of August 2001.